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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP

Chairman

GARY PIERCE

Commissioner

BRENDA BURNS

Commissioner

BOB BURNS

Commissioner

SUSAN BITTER SMITH

Commissioner

Arizona Corporation Commission

DOCKETED

JUL 30 2014

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IN THE MATTER OF ARIZONA-
AMERICAN WATER COMPANY'S
APPLICATIONS FOR AN INCREASE IN
RATES FOR ITS WATER AND
WASTEWATER RATES

DOCKET NOS. W-01303A-09-0343
SW-01303A-09-0343

DECISION NO. 74588

ORDER

Open Meeting
July 22 and 23, 2014
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. Arizona-American Water (now known as "EPCOR") Company ("EPCOR", "Arizona-American", or "Company") is certificated to provide water and wastewater service as a public service corporation in the State of Arizona.

I. INTRODUCTION

2. The Commission has received a significant number of customer complaints and petitions concerning EPCOR's Agua Fria District's rates and charges for water and wastewater services. The Utilities Division Staff ("Staff") July 8, 2014 Memorandum provides an overview of these customer complaints and petitions in the context of prior Commission decisions and makes recommendations to the Commission on the process that could be used to address the issues raised by EPCOR's customers.

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1 **II. BACKGROUND**

2 3. Arizona-American was Arizona's largest investor-owned water and wastewater utility,
3 operating twelve water and wastewater systems in Arizona, and serving approximately 158,000
4 customers located in portions of Maricopa, Mohave, and Santa Cruz Counties. In Decision No.
5 72668 in Docket No. W-01303A-11-0101, the Commission approved the purchase of Arizona-
6 American's stock by EPCOR USA, an indirect wholly-owned subsidiary of EPCOR, a municipally
7 owned Canadian corporation and holding company headquartered in Edmonton, Alberta, that builds,
8 owns and operates water and wastewater facilities and infrastructure and electrical transmission and
9 distribution networks in Canada.

10 4. The customers' complaints regarding the water and wastewater rates in Corte Bella,
11 Cross River, Dos Rios and Coldwater Ranch relate primarily to the combined impacts of two rate
12 cases filed by Arizona-American Water Company ("Arizona-American" or the "Company") with the
13 Commission in July 2009 and in November 2010. The first case filed in July 2, 2009, in Docket Nos.
14 W-01303A-09-0343 and SW-01303A-09-0343, was an application for a rate increase in the Company's
15 Anthem Water District and Sun City Water District, and included consideration of possible rate
16 consolidation of all of Arizona-American's water districts. The case also included a request by
17 Arizona-American for an increase in its rates and charges for its Anthem/Agua Fria Wastewater
18 District, its Sun City Wastewater District and its Sun City West Wastewater District and possible rate
19 consolidation for all of Arizona-American's wastewater districts.

20 5. Intervenors in the case included the Residential Utility Consumer Office ("RUCO"),
21 Camelback Inn, Sanctuary of Camelback Mountain, the Intercontinental Montelucia Resort and Spa,
22 and the Scottsdale Cottonwoods Resort and Suites (collectively, the "Resorts"), the Town of Paradise
23 Valley ("Paradise Valley"), the Anthem Community Council ("Council"), the Sun City West Property
24 Owners and Residents Association ("PORA"), the Water Utility Association of Arizona ("WUAA"),
25 Anthem Golf and Country Club ("Anthem Golf"), Marshall Magruder, W.R. Hansen, Larry D. Woods
26 Philip H. Cook, DMB White Tank ("DMB"), and Mashie, LLC dba Corte Bella Golf Club.

27 6. The hearing in the case was bifurcated, with the first phase focusing on the revenue
28 requirement requested by the Company for the various districts and second phase ("Phase II")

1 consisting of Commission consideration of rate design and rate consolidation issues. There was
2 extensive public comment submitted in this case, both written and oral. The Commission adopted
3 Decision No. 72047 on January 6, 2011, setting new rates for the districts involved in the 09-0343
4 case.

5 7. An issue considered in the rate case in Docket 09-0343 was whether to deconsolidate
6 the Anthem-Agua Fria Wastewater district into two new separate districts: an Anthem Wastewater
7 District and an Agua Fria Wastewater District. Decision No. 72047 left the Docket open for the sole
8 purpose of considering the implementation of stand-alone revenue requirements and rate designs for
9 separate Anthem Wastewater and Agua Fria Wastewater Districts, as agreed to in the settlement
10 reached by the Company, Anthem, RUCO and Staff during the Open Meeting at which Decision No.
11 72047 was considered.

12 8. While Decision No. 72047 approved an overall rate increase of 53.98 percent for all
13 residential customers in the Company's Anthem-Agua Fria Wastewater District, it made those rates
14 interim, subject to change depending upon the Commission's determination on a deconsolidation
15 petition to be filed by the Company on April 1, 2011. In Decision No. 73227, the Commission found
16 that deconsolidation of the Anthem-Agua Fria Wastewater district as contained in the Company's
17 application was in the public interest. The Commission adopted a deconsolidation rate plan proposed
18 by Dan Neidlinger, a consultant for the Anthem Community Council. The plan provided for a phase-
19 in of the rates over three years. Step 1 of the 3 step rate plan was to begin on January 1, 2013; with
20 Step 2 taking effect in January 2014, and Step 3 taking effect in January 2015.

21 9. In Decision No. 73837, the Commission clarified that the Neidlinger rate plan was to
22 be used in light of deconsolidation; and the Winter Average Rate ("WAR") Design approved in
23 Decision No. 72047 was no longer intended to be implemented. Implementation of both
24 deconsolidated rates and a WAR design would have been extremely confusing for customers and
25 could have led to unanticipated results.

26 10. The second rate case was filed with the Commission by Arizona-American in
27 November 2010. In that case, Docket No. W-01303A-10-0448, the Company requested increases in
28 its rates to provide water service in its Agua Fria, Havasu and Mohave Water Districts. Intervenor in

1 this case included RUCO, the City of Surprise ("Surprise"), WUAA, Sun City Grand Community
2 Association ("SCGCA") (as class representative for 17 homeowners associations), EPCOR, Verrado
3 Community Association ("Verrado"), DMB White Tank LLC ("DMB"), Corte Bella, as well as various
4 individuals.

5 11. Decision No. 73145 approved a Settlement Agreement among EPCOR, Arizona-
6 American, Staff, RUCO, Verrado, DMB, the City of Surprise, Corte Bella, Cross River Homeowners
7 Association, WUAA and SCGCA on behalf of itself and the Class of Homeowners Associations. The
8 Agreement resulted in a 58 percent rate increase for the Agua Fria Water District with the rates
9 increases phased in over a three year period. The Agreement provided for implementation of
10 approximately 67 percent of the rate increase in year 1 beginning in July 2012; and 16 percent and 17
11 percent of the rate increase in years 2 and 3, respectively, with the last increase taking effect on July 1,
12 2014.

13 **III. SUMMARY OF COMPLAINTS FILED WITH THE COMMISSION**

14 12. On February 25, 2014, customers from the communities of Cross River, Dos Rios, and
15 Coldwater Ranch delivered over 100 letters to the Commission asking the Commission to investigate
16 their rates for water and wastewater service. Included was a letter from State Representatives Phil
17 Lovas and David Livingston and State Senator Judy Burges. The Legislators' letter states that there is
18 a great discrepancy in rates between various communities in the northwest valley. It points out that
19 the water/wastewater rates for the EPCOR Agua Fria District are nearly \$100 more per month than
20 those for the EPCOR Sun City District and nearly \$75 more than rates for several city water services.
21 The letter asks the Commission to review the water/wastewater rates for this area. The letter also
22 states that the communities of Cross River, Dos Rios, and Corte Bella are geographically distant and
23 physically unconnected to the Agua Fria Water District and that they use the NW Valley Regional
24 Water Reclamation Facility even though they are paying for the White Tank Facility. The letter ends
25 with a series of questions which it requests the Commission to investigate.

26 13. The second complaint letter was filed with the Commission on March 7, 2014, and
27 included approximately 2,320 signatories who are homeowners in the Corte Bella Subdivision, and
28 Sun City West. The second complaint letter states that the signatories are requesting an immediate

1 investigation and review of their water and wastewater rates. It further states that in the last two years
2 their wastewater rates have more than doubled; and another increase is scheduled to be implemented.

3 14. The letter requests deconsolidation of the Corte Bella subdivision from the Agua Fria
4 District and instead consolidation with the Sun City West District based upon the following reasons:
5 1) Corte Bella shares the NW Valley Regional Water Reclamation Facility with the Sun City West
6 District; 2) Corte Bella is located geographically distant from the Agua Fria District; 3) Corte Bella
7 water is provided by wells on its own community property; the Agua Fria District uses Central
8 Arizona Project "CAP" water; 4) the consolidation of Corte Bella with Agua Fria is inconsistent with
9 cost of service ratemaking principles and contrary to good public policy; 5) consolidation of Corte
10 Bella in the Agua Fria District does not result in just and reasonable rates for Corte Bella residents; 6)
11 the large disparity in rates is based on the NW Valley Plant, the Verrado Reclamation Facility and
12 expansion of the Russell Ranch Reclamation Facility; 7) Corte Bella residents do not and cannot use
13 the Verrado, Russell Ranch or NW Valley (White Tanks) facilities due to geographical separation and
14 no interconnection facilities; 8) to accurately allocate costs to the cost-causers, Corte Bella must be
15 deconsolidated from the Agua Fria District and joined with the Sun City West District; and 9) the
16 circumstances surrounding the use of wastewater facilities for the prior Anthem-Agua Fria district and
17 Corte Bella are identical and Anthem has been deconsolidated from the Agua Fria District.

18 15. Finally, a third complaint letter and series of petitions included approximately 1,100
19 signatories of homeowners from the communities of Corte Bella, Cross River, Dos Rios and
20 Coldwater Ranch and was delivered to the Commission on April 9, 2014. The third complaint letter
21 states that these communities request deconsolidation with the Agua Fria Water/Wastewater District
22 and consolidation with the Sun City West Water/Wastewater District. The letter gives the following
23 reasons for the requested relief: 1) there is no substantial reason for the continued consolidation of
24 Corte Bella, Cross River, Dos Rios, and Coldwater Ranch, which are geographically distant and
25 physically unconnected to the Agua Fria District; 2) Consolidation of Corte Bella, Cross River, Dos
26 Rios, and Coldwater Ranch in the Agua Fria District is inconsistent with cost of service ratemaking
27 principles and contrary to good public policy that requires correct assignment of costs; 3)
28 Consolidation of Corte Bella, Cross River, Dos Rios and Coldwater Ranch with the Agua Fria District

1 does not result in fair, just and reasonable rates. They do not use nor can they use the facilities which
2 resulted in the disparity in rates due to geographical separation and no interconnection facilities; 4)
3 Anthem has been deconsolidated under identical factors; and 5) The communities water/wastewater
4 rates have more than doubled in the last three years.

5 16. In a June 17, 2014 letter to the Commission, the representatives of the petitioners
6 proposed the following two options for interim relief: 1) that EPCOR defers the wastewater "Sewer
7 Volume" charge until after 10,000 gallons metered usage; or 2) that EPCOR charge all the Agua Fria
8 water district customers only 30 percent of the metered water usage as wastewater. The June 17th
9 letter also expressed concern that on July 1, 2014, the last step in the water rate increase is scheduled
10 to take effect; and on January 1, 2015, the last step of the wastewater rate increase is scheduled to take
11 effect. The letter indicates that an additional approximately \$20 will be added to the average Agua Fria
12 Water District customer's water bill. (For ease of reference, the above discussed customers' letters,
13 complaints and petitions will hereinafter be referred to collectively as the "customer complaints".)

14 IV. INITIAL STEPS TAKEN IN RESPONSE TO THE PETITIONS

15 17. The Utilities Division Consumer Services Section issued three inquiries to EPCOR,
16 Inquiry Nos. 2014-115254, 2014-115412, and 2014-115737 regarding the complaints. EPCOR
17 responded on March 14, March 20 and April 18, 2014, respectively.

18 18. In response to the inquiries, EPCOR indicated that in its view, any action to further
19 deconsolidate the Agua Fria Wastewater or consolidate with other districts would require a break out
20 of the costs of the new Agua Fria sub-areas into their separate rate bases; with separate operating costs
21 also required. EPCOR estimated that it would cost more than \$350,000 to create the internal
22 company accounting break out of rate base and expenses for Verrado, Russell Ranch and Northeast
23 Agua Fria. EPCOR also indicated that it believed there would be additional costs if the capital and
24 operating costs for the Agua Fria Water District had to be segregated or other sub districts were
25 evaluated. EPCOR recommended that any possible further action by the Commission not occur until
26 after the last phase of rates on January 2015 in the Agua Fria Wastewater District have been in effect
27 for at least six months.

28 ...

1 19. With respect to the water facilities, EPCOR indicated that the customers' main
2 concern appears to be with the inclusion of the White Tanks Water Treatment Facility in the Agua
3 Fria District. EPCOR stated that all Agua Fria Water District customers benefit from the White
4 Tanks Water Treatment Facility. According to EPCOR, over the last 50 years, the West Valley has
5 developed largely based upon groundwater resources. As a result, groundwater overdraft and
6 depletion in the area has been severe. EPCOR referred to an October 1996 study by the Arizona
7 Department of Water Resources ("ADWR") that reported past groundwater declines of more than
8 300 feet and land surface subsidence of more than 18 feet in portions of the West Salt River Valley
9 Basin, which comprises the Company's Agua Fria Water District.

10 20. EPCOR stated that the White Tanks Water Treatment Plant is a regional water
11 treatment facility that treats CAP water, a renewable source of water. At a total project cost of \$63.9
12 million, the White Tanks Regional Water Treatment Plant was placed in service on November 30,
13 2009. EPCOR states that the plant has allowed the Company to aggressively pursue the reduction of
14 future wells in the Agua Fria Water District. When using the White Tanks treatment plant, EPCOR
15 stated that it is able to reduce groundwater pumping by more than 3.5 billion gallons each year.

16 21. EPCOR has also held a public meeting in Corte Bella with some of the petitioning
17 homeowners to discuss their concerns. This public meeting was held on April 16, 2014.

18 **V. STAFF'S PRELIMINARY REVIEW**

19 22. In light of the nature and volume of customer complaints, Staff believes that a
20 Commission examination of the customers' issues related to EPCOR's Agua Fria District's rates is
21 warranted. However, it is important to note at the outset of any Commission examination of the
22 customer complaints, that there does not appear to be a dispute as to whether EPCOR is charging its
23 customers the rates that have been approved by the Commission. Instead, the focus of the customer
24 complaints center on concerns that: 1) their water and wastewater rates are unreasonably and unfairly
25 high, and 2) rate design issues related to consolidation and/or deconsolidation need to be addressed
26 by the Commission, particularly for wastewater services.

27 23. After Staff's preliminary review of the customer complaints, it appears to Staff that the
28 issues raised in the customer complaints would best be addressed initially by a Commission

1 examination of rate design matters related to the Agua Fria District's rates. Thus, Staff is not
2 recommending that the initial analysis be based upon an assumption that full rate cases need to be
3 conducted for Agua Fria water and wastewater services at the present time. Similarly, Staff believes
4 that the issues raised by the customer complaints are most compelling in regard to wastewater rates.
5 Therefore, in Staff's view, it appears reasonable to move forward with an examination of rate design
6 issues related to wastewater rates, and as a subsequent step, consider what kind of review of water
7 rates might be undertaken.

8 24. Staff has not reached any final opinion on these issues and is interested in ensuring
9 that the Commission has a range of options as it continues to examine these matters. To that end,
10 Staff is requesting that the Commission require EPCOR to make a filing on or before August 8, 2014,
11 that responds to the customers' issues and includes discussion of various rate design options to
12 address customer complaints. The Company's discussion of the rate design options should also
13 discuss the potential timing of an option's implementation and address possible phase in. Moreover,
14 EPCOR should directly address Staff's view that it might be best to limit the present examination to
15 rate design matters related to its wastewater rates, and leave consideration of a review of water rates
16 for a later time.

17 25. Set out below are the matters that Staff believes at minimum are necessary to be
18 included in EPCOR's filing, hereinafter referred to as EPCOR's "Response":
19

- 20 a. Response to the customer complaints and requests for relief.
- 21 b. Response to Staff's opinion that the Commission's examination of these matters
22 should commence with rate design matters related to wastewater rates.
- 23 c. Discussion and analysis demonstrating the rate impacts of full consolidation of all
24 districts, including a potential timeline for consolidation and whether phase in is
25 warranted. Discussion and analysis should address when the circumstances in one
26 district necessitate a substantive investment for new plant and/or infrastructure
27 improvements, for only that district. This discussion should also address whether a
28 rate case(s) would be warranted for consolidation of all districts.
- d. Discussion and analysis as to whether consolidation is warranted, when there is no
 nexus between districts that do not share contiguous service territorial borders,
 weather conditions, urban or rural locations, farming factors and/or water supply
 needs.

- e. Discussion and analysis demonstrating the rate impacts of full deconsolidation of all districts and systems, including a potential timeline for deconsolidation and whether phase in is warranted. This discussion should also address whether a rate case(s) would be warranted for deconsolidation.
- f. Discussion and analysis demonstrating the rate impacts of reversing the deconsolidation of Anthem from the Agua Fria District, including a potential timeline for reversal and whether phase in is warranted. Discussion and analysis should include any and all implications to the settlement agreement in Docket Nos. W-01303A-09-0343 and SW-01303A-09-0343.
- g. Discussion of any EPCOR identified potential alternative options and the options' rate impacts on affected customers.
- h. Any recent calculations by EPCOR, which have previously identified potential alternative options, must be updated and must also add any new calculations if the next rate case moves forward as scheduled.

VI. PROCEDURAL MATTERS

26. Staff recommends that the Commission direct the Hearing Division to issue a Procedural Order after the filing of EPCOR's Response that sets a procedural conference to discuss the further processing of these matters. Staff requests that the procedural conference be set for a date and time convenient to the Hearing Division within 7 to 10 calendar days after EPCOR's Response is docketed.

27. The matters that Staff believes should be addressed at the procedural conference include:

- a. Who are the appropriate parties in these proceedings.
- b. What are the type, extent and timing of notices that should be provided to EPCOR's customers.
- c. What is an appropriate schedule for intervention by interested persons and stakeholders.
- d. What is an appropriate schedule for the submission of pre-filed testimony and dates for hearing.

28. Staff also notes that a possible result of the Commission's examination of these matters may involve Commission consideration of modification of previous decisions. In light of this possibility, Staff believes that the procedural conference should also address whether prior decisions

1 should be reopened pursuant to A.R.S. §40-252 to provide notice and opportunity to be heard
2 concerning the Commission's possible amendment of prior orders. Staff wants to make it clear that at
3 this time, no specific modification to any prior decision is contemplated or recommended by Staff.
4 However, the extent of notice and opportunity to be heard should be a topic discussed at the
5 procedural conference recommended by Staff above.

6 **VII. STAFF'S RECOMMENDATIONS**

7 29. Staff recommends that the Commission adopt in its ordering paragraphs all of Staff
8 recommendations discussed herein concerning EPCOR's Response and the setting of a procedural
9 conference to address the processing of these matters.

10 CONCLUSIONS OF LAW

11 1. The Company is an Arizona public service corporation within the meaning of Article
12 XV, Section 2, of the Arizona Constitution.

13 2. The Commission has jurisdiction over the Company and of the subject matter of these
14 Applications.

15 3. The Commission having reviewed the filing and Staff's Memorandum dated July 8,
16 2014, concludes that Staff's recommendations are in the public interest.

17 ORDER

18 IT IS THEREFORE ORDERED that on or before August 8, 2014, EPCOR shall file a
19 Response to the Complaints addressing the issues set forth in Finding of Fact No. 25.

20 IT IS FURTHER ORDERED that EPCOR is authorized to defer and record in its regulatory
21 accounting records the expenses incurred related to this proceeding and the customer complaints
22 described above for consideration in a future rate case.

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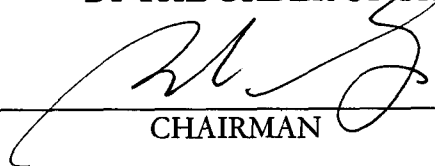
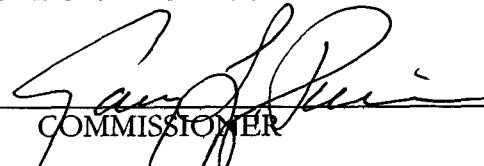
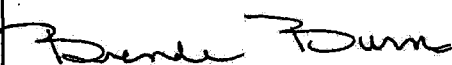
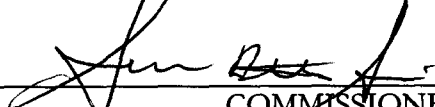
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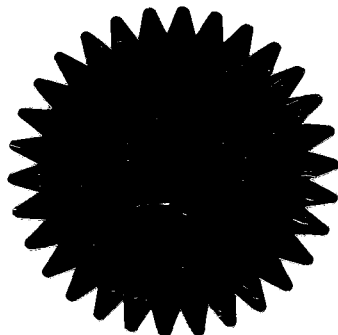
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1 IT IS FURTHER ORDERED that the Hearing Division shall issue a Procedural Order
2 setting the date and time for a Procedural Conference within 7 to 10 calendar days after EPCOR's
3 Response is docketed to discuss at a minimum the issues set forth in Findings of Fact Nos. 27 and 28
4 and any other issues deemed appropriate by the Hearing Division to ensure the timely processing of
5 these complaints.

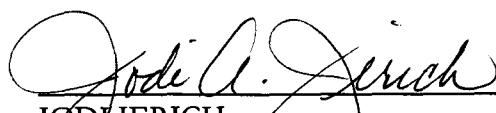
6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7
8 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

9
10  CHAIRMAN  COMMISSIONER
11  **EXCUSED**
12  **COMM. BURNS**
13 COMMISSIONER COMMISSIONER COMMISSIONER



18 IN WITNESS WHEREOF, I, JODI JERICH, Executive
19 Director of the Arizona Corporation Commission, have
20 hereunto, set my hand and caused the official seal of this
21 Commission to be affixed at the Capitol, in the City of
22 Phoenix, this 30th day of July, 2014.

23 
24 JODI JERICH
25 EXECUTIVE DIRECTOR

26 DISSENT: _____

27 DISSENT: _____

28 SMO:lhmm\JMA

SERVICE LIST FOR: Arizona-American Water Company
DOCKET NOS. W-01303A-09-0343 and SW-01303A-09-0343

Mr. Thomas H. Campbell
Mr. Michael T. Hallam
LEWIS AND ROCA LLP
40 North Central Avenue, Suite 1900
Phoenix, Arizona 85004

Mr. Andrew M. Miller
Mr. Tom Attorney
TOWN OF PARADISE VALLEY
6401 East Lincoln Drive
Paradise Valley, Arizona 85253

Ms. Judith M. Dworkin
Ms. Roxanne S. Gallagher
SACKS TIERNEY PA
4250 North Drinkwater Blvd., Floor 4
Scottsdale, Arizona 85251-3693

Mr. Bradley J. Herrema
Mr. Robert J. Saperstein
Brownstein Hyatt Farber Schreck, LLP
21 East Carillo Street
Santa Barbara, California 93101

Mr. Lawrence V. Robertson, Jr.
Post Office Box 1448
Tubac, Arizona 85646- 1448

Mr. Marshall Magruder
P.O. Box 1267
Tubac, Arizona 85646-1267

Mr. Daniel Pozefsky
Chief Counsel
RUCO
1110 West Washington Street, Suite 220
Phoenix, Arizona 85007

Mr. Norman-D. James
FENNEMORE CRAIG, P.C.
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012

Mr. Larry Woods
President
Property Owners and Residents Assn.
13815 East Camino Del Sol
Sun City West, Arizona 85375

Mr. Larry D. Woods
15141 West Horseman Lane
Sun City West, Arizona 85375

W. R. Hansen
12302 West Swallow Drive
Sun City West, Arizona 85375

Ms. Joan S. Burke
LAW OFFICE OF JOAN S. BURKE
1650 North First Avenue
Phoenix, Arizona 85003

Mr. Greg Patterson
916 West Adams Street, Suite 3
Phoenix, Arizona 85007

Mr. Craig A. Marks
Craig A. Marks, PLC
10645 North Tatum Boulevard, Suite 200-676
Phoenix, Arizona 85028

Mr. Robert Metli
SNELL & WILMER
One Arizona Center
100 East Van Buren Street
Phoenix, Arizona 85004-2202

Scottsdale Citizens for Sustainable Water
7322 East Cactus Wren Road
Scottsdale, Arizona 85250-4526

Mr. Philip H. Cook
10122 West Signal Butte Circle
Sun City, Arizona 85373

Ms. Lynn M. Krupnik
Ekmark & Ekmark, LLC
6720 North Scottsdale Road, Suite 261
Scottsdale, Arizona 85253

Peter and Rochanee Corpus
8425 North 181st Drive
Waddell, Arizona 85355

1 Ms. Michele L. Van Quathem
2 Ryle Carlock & Applewhite
3 One North Central Avenue, Suite 1200
4 Phoenix, Arizona 85004-4417

5 Mr. George M. Turner
6 President, Board of Directors
7 Russell Ranch Homeowners' Assoc., Inc.
8 Post Office Box 12560
9 Glendale, Arizona 85318

10 Mr. Frederick G. Botha
11 Ms. Mary L. Botha
12 23024 North Giovota Drive
13 Sun City West, Arizona 85375

14 Ms. Tammy Ryan
15 Mr. Andy Terrey
16 City of Phoenix
17 Water Services Department
18 200 West Washington, Floor 9
19 Phoenix, Arizona 85003-1611

20 Ms. Cynthia Campbell
21 Assistant City Attorney
22 Office of the City Attorney
23 200 West Washington, Suite 1300
24 Phoenix, Arizona 85003-1611

25 Mr. Chard R. Kaffer
26 Mr. Troy Stratman, Esq.
27 Mack Drucker & Watson, PLC
28 3200 North Central Avenue, Suite 1200
Phoenix, Arizona 85012

Mr. Jason D. Gellman
Roshka, DeWulf & Patten, PLC
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004

Thomas and Laurie Decatur
924 Torridon Court
Pickerington, Ohio 43147

Mr. Kenneth Hewitt
18729 North Palermo Court
Surprise, Arizona 85387

Ms. Peggy H. Rahkola
The Arizona Traditions HOA
17221 North Citrus
Surprise, Arizona 85374

Mr. Jim Weihman
The Happy Trails Community Association
17200 West Bell Road
Surprise, Arizona 85374

Mr. Nicholas Mascia
The Surprise Farms III Community Assn.
1600 West Broadway Road, Suite 200
Tempe, Arizona 85282

Mr. William B. Lipscomb
Kingswood Parke Community Association
14976 West Bottletree Avenue
Surprise, Arizona 85374

Mr. Kevin Chiariello
Greer Ranch South HOA
16074 West Christy
Surprise, Arizona 85379

Mr. Michael D. Bailey
City Attorney
City of Surprise
16000 North Civic Center Plaza
Surprise, Arizona 85374

Mr. Mike Albertson
6634 North 176th Avenue
Waddell, Arizona 85355

Mr. Brian O'Neal
21373 West Brittle Bush Lane
Buckeye, Arizona 85396

Craig and Nancy Plurnmer
17174 West Saguaro Lane
Surprise, Arizona 85388

William and Erin Parr
18044 West Georgia Court
Litchfield Park, Arizona 85034

1 Ms. Sharon Wolcott
2 20117 North Painted Cove Lane
3 Surprise, Arizona 85387

4 Mr. Owen Dejanovich
5 Clearwater Farms Three HOA
6 P.O. Box 72
7 Waddell, Arizona 85355

8 Mr. Jim Oravetz
9 Legacy Parc South Homeowners Assn.
10 1600 West Broadway Road, Suite 200
11 Tempe, Arizona 85282

12 Mr. Stan Mucha
13 The Sun Village Community Association
14 17300 North Sun Village Pkwy
15 Surprise, Arizona 85374

16 Ms. Jan Garcia
17 Sycamore Estates Parcel 13 Comm. Assn.
18 1600 West Broadway Road, Suite 200
19 Tempe, Arizona 85282

20 Mr. Garry D. Hays
21 The Law Offices of Garry D. Hays, PC
22 1702 East Highland Avenue, Suite 204
23 Phoenix, Arizona 85016

24 Mr. Jared Evenson
25 Cross River Homeowners Association
26 1600 West Broadway Road, Suite 200
27 Tempe, Arizona 85282

28 Mr. Timothy L. Duffy
Ms. Cindy J. Duffy
19997 North Half Moon Drive
Surprise, Arizona 85374

Mr. Mike Smith
Sierra Montana Homeowners Association
c/o Rossmar & Graham
15396 North 83rd Ave., Bldg. B, Suite 101
Peoria, Arizona 85381

Ms. Susan Harr
Summerfield at Litchfield Subdivision HOA
13201 North 35 Avenue, Suite B-3
Phoenix, Arizona 85029

Ms. Dana Rosenbaum
Surprise Farms Community Assn., Phase 1A
P.O. Box 25466
Tempe, Arizona 85285-5466

Mr. Jerome M. Ellison II
Cortessa Community Association
P.O. Box 25466
Tempe, Arizona 85285-5466

Ms. Jeanne Stockard
Northwest Ranch Homeowners Association
4742 North 24th Street, Suite 325
Phoenix, Arizona 85016

Mr. Jay L. Shapiro
Mr. Patrick J. Black
Fennemore Craig
3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Janice M. Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

(Services lists are from W-01303A-09-0343,
SW-01303A-09-0343 and W-01303A-10-0448)